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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,246	09/30/2003	Daisuke Hata	243165US2DIV	2833
22850	7590	06/09/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.			JERABEK, KELLY L.	
1940 DUKE STREET				
ALEXANDRIA, VA 22314			ART UNIT	PAPER NUMBER
			2622	
			NOTIFICATION DATE	DELIVERY MODE
			06/09/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/673,246	<b>Applicant(s)</b> HATA, DAISUKE
	<b>Examiner</b> KELLY L. JERABEK	<b>Art Unit</b> 2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 March 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 3-5,8-10 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,8,9,13 and 14 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 5,10 and 15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. 09/196,620.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

This is a first office action in response to application 10/673,246 filed on 9/30/2003 in which claims 3-5, 8-10 and 13-15 are presented for examination.

***Information Disclosure Statement***

The information disclosure statements (IDS) submitted on 9/30/2003, 12/30/2003 and 12/9/2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

***Election/Restrictions***

Applicant's election without traverse of Invention III pertaining to claims 5, 10 and 15 in the reply filed on 3/13/2008 is acknowledged.

Claims 3-4, 8-9 and 13-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/13/2008.

***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/196,620, filed on 11/19/1998.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 5, 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaji et al. US 2002/0018136 in view of Masamitsu JP 05-103245.**

Re claims 5, 10 and 15, Kaji discloses an automatic focusing device for a digital camera, a method for operating an automatic focusing device for a digital camera, and a computer readable medium for storing computer instructions for an automatic focusing device for a digital camera, comprising: an optical system (101) including a focusing lens system; an imaging device (103) which receives a light flux from an object to be

photographed, the received light, flux being passed through the optical system (101) to form an image of the object, and converts the received light flux into an output image signal; an analog-to-digital converting means (105) for converting the image signal to output digital image data (page 10, paragraph 154; figure 29); automatic exposure (AE) evaluation value outputting means (AE signal processing circuit – 111) for outputting luminance data according to the digital image data as an AE evaluation value and automatic focusing (AF) evaluation value outputting means (115) for integrating high frequency components of luminance data of image data in an AF area (119) and outputting resulting data as an AF evaluation value (page 10, paragraph 154-page 11, paragraph 159; figure 29); AF evaluation value sampling means (116) for enabling the AF evaluation value outputting means (115) to sample AF evaluation values output by the AF evaluation value outputting means (115) while moving the focusing lens system (101); focusing lens driving means (117) for determining if the device is in focus based upon a result of sampling the AF evaluation values and driving the focusing lens system (101) to a focusing position when the device is not in focus (page 10, paragraph 154-page 11, paragraph 161; figure 29); and AE control means (112) for controlling an AE control operation in accordance with the AE evaluation value output by the AE evaluation value outputting means (111) (page 11, paragraph 159). However, although the Kaji reference discloses all of the above limitations it fails to specifically disclose an AE setting means for setting an AE evaluation value for an AF area independently from the AE control operation by the AE control means, wherein an AF operation is executed

after the AE operation for the AF area is performed by the AE setting means for the AF area.

Masamitsu discloses an imaging device that is capable of performing both an auto-exposure operation and an auto-focus operation. Masamitsu discloses an auto-exposure (AE) setting means (exposure controller - 8) for setting an AE exposure value for an auto-focus (AF) area independently from another AE control operation performed by an AE control means, wherein an auto-focus (AF) operation is executed after the AE operation for the AF area is performed by the AE setting means (exposure controller - 8) for the AF area (when photometric information from photometric element 7 indicates low illuminance, the gain-up of the gain amplifier 10 is operated by a gain control signal from an exposure control part 8 and an AF performance can be improved) (page 2, paragraph 8-page 3, paragraph 14). Therefore, it would have been obvious for one skilled in the art to have been motivated to include an exposure controller for activating a gain amplifier when an object is user low illuminance during AF control as disclosed by Masamitsu in the automatic focusing device for a digital camera disclosed by Kaji. Doing so would provide a means for improving an auto-focus performance of an automatic focusing device of a digital camera (Masamitsu: abstract).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Murata et al. (US 5,345,264) discloses a video signal processing circuit for a video camera using a luminance signal. The information regarding auto-focus control is relevant material.

Suzuki (US 5,502,485) discloses a camera which compresses digital image data in correspondence with the focus control or the stop value of the camera. The information regarding auto-focus control is relevant material.

Hata (US 6,430,368) discloses an auto-focus apparatus. The information regarding auto-focus control is relevant material.

Takahata et al. (US 6,108,495) discloses a camera including a focus detecting sensor. The information regarding auto-focus control is relevant material.

Toji (US 5,694,168) discloses an auto-focus control device and a method including selecting a zone for detecting an evaluative value for focusing in accordance with photographing direction. The information regarding auto-focus control is relevant material.

Ohkawara et al. (US 6,683,652) discloses an interchangeable lens video camera system having improved focusing. The information regarding auto-focus control is relevant material.

Yasuda (US 2001/0000674) discloses an automatic focus adjusting device. The information regarding auto-focus control is relevant material.

Takahashi (US 6,636,266) discloses an image recording device with a structure for adjusting the device based on the video signal. The information regarding auto-focus control is relevant material.

Suzuki et al. (US 5,751,354) discloses an image sensing apparatus and a method with exposure performed based on focus evaluation values. The information regarding auto-focus control is relevant material.

Kikuchi et al. (US 5,144,450) discloses an auto-focus frequency conversion filter for CCD images having different numbers of pixels. The information regarding auto-focus control is relevant material.

***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is **(571) 272-7312**. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached at **(571) 272-7372**. The fax phone number for submitting all Official communications is **(571) 273-7300**. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at **(571) 273-7312**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kelly L. Jerabek/

Primary Examiner, Art Unit 2622